

EXHIBIT 13



LAW OFFICES OF
McLAUGHLIN & ASSOCIATES, P.C.
1 E. BENTON ST., SUITE 301, AURORA, IL 60505
630-230-8434 PHONE 630-230-8435 FAX WWW.MA-LAWPC.COM

November 11, 2021

Via Email to: Garfield.goodrum@gdrmlaw.net; hwillett@cblaw.com

Garfield Goodrum
Garfield Goodrum, *Design Law*
90 Canal Street, 4th floor
Boston, MA 02114

Henry I. Willett III
Christian & Barton, LLP
901 East Cary Street, Suite 1800
Richmond, Virginia 23219

Re: Emerson Creek Pottery, Inc. v. Countryview Pottery Co., et al.
Opposition No. 91244057
Our File No.: 673/992

Dear Mr. Goodrum and Mr. Willett:

I am writing in response to your requests, as expressed in your letter dated today, for emails between the parties. I have reviewed the 33 document requests you propounded and do not see any that request emails. Nonetheless, they have not been previously withheld. Rather, as explained to you by my clients in their depositions, they do not have access to emails prior to 2017 because they were lost during their migration to G-suites. They identified all of the email addresses they used and attempted to check to see if any had archived emails but found they did not. They did not print these emails when they were generated, as prior to your 2017 demand, no complaints had been lodged by Mr. Leavitt, and therefore, there was no reason to retain them. I have attached emails from 2017-present between my clients and Mr. Leavitt, most of which involve settlement negotiations, Bates stamped ECE 682-704. Technically, most are not relevant to nor admissible in this matter, but they are nonetheless being produced. I understand that you were able to retrieve emails through Lindsay Winkler, but my clients do not have those emails on their end.

With respect to requests for financials related to events, my clients stand on their previously stated objections. Financial documentation was nonetheless previously provided which identifies gross revenues from the event business.

Very truly yours,

LAW OFFICES OF McLAUGHLIN & ASSOCIATES, P.C.

Kenneth S. McLaughlin, Jr.

KSM/pm

Attachments (ECE 682-704)

Cc: Larry Laubscher

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:46 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: spring

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **Chris Demiduk** <chris@ecreekpotteryandtearoom.com>
Date: Fri, Jan 27, 2017 at 7:23 PM
Subject: Fwd: spring
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

----- Forwarded message -----

From: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Date: Fri, Jan 27, 2017 at 9:23 AM
Subject: RE: spring
To: Chris Demiduk <chrisdemiduk@gmail.com>

Did you see our showroom at Las Vegas?

Also, we need to be sure to talk about nomenclature on the web. Some of your references are not "Emerson creek [potter and tearoom]", but only "Emerson creek, or Emerson creek pottery", which is causing problems with our website.

Give me a call when you get back.

Jim

From: Chris Demiduk [mailto:chrisdemiduk@gmail.com]
Sent: Wednesday, January 25, 2017 2:56 PM
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Subject: Re: spring

Thanks for email. I am coming home from Las Vegas gift show and was in Atlanta last week for show I will call you maybe tomorrow coming home tonight. I have sales printed for 2015 and 2016 for emerson creek sales I want to email to you so maybe u can see it on paper.

Look up a company Rae Dunn the mugs with coffee, tea, words etc are just a huge trend I don't buy them but I would love to Start something like this with EC

Talk soon,

Chris

Sent from my iPhone

On Jan 25, 2017, at 10:40 AM, Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@EmersonCreekPottery.com> wrote:

Hi Chris,

Are you planning to place a spring order anytime soon? Trying to plan ahead here and if we know what you're plans are it would help. Do have new stuff in the pipeline, call to discuss if you're interested.

Thanks,

Jim

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:47 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: various

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: Chris Demiduk <chrisdemiduk@gmail.com>
Date: Sat, Feb 25, 2017 at 6:20 AM
Subject: Fwd: various
To: <dave@ecreekpotteryandtearoom.com>

Sent from my iPhone

Begin forwarded message:

From: "Jim Leavitt - EmersonCreekPottery.com" <EmersonCreek@EmersonCreekPottery.com>
Date: February 22, 2017 at 6:23:20 AM CST
To: <chris@ecreekpotteryandtearoom.com>
Subject: various

Hi Chris,

Get me those words so we can start on your order.

Also, your social media person has not dealt with the "emersoncreek" events on Instagram yet.....

Jim

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:48 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: question

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
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t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Mon, Mar 6, 2017 at 9:01 PM
Subject: Re: question
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>

Jim,

Sorry for the delay in getting back to you.

Yes we can put a link on our web site to yours but in return we would like a link from your web site to ours maybe under "Other places to purchase pottery".

As far as the "Emerson Creek" hash tags.

We are still not understanding how that would hurt your business.

Chris and I have been working very hard on getting our name out there for the Shop, Tearoom and Events for many years. This is our life, this is how we make a living, just like you.

When Chris started the shop, I think this will be year 17, she incorporated in Illinois as Countryview Pottery Inc. and the DBA Emerson Creek Pottery. Two or three years after the shop she started up the Tea Room. The Tea Room was run under the same corporation. As business grew we eventually adopted another another DBA in Illinois under Emerson Creek Tea Room. As time went on and we started hosting weddings we started a totally different company in 2012 called Emerson Creek Events Inc.. All the names are our legal names in the state of Illinois.

We feel it would be unfair to our customers to stop using Emerson Creek. Our customers now us as "Emerson Creek", "Emerson Creek Pottery and Tearoom", "Emerson Creek Pottery", "Emerson Creek Tearoom", and "Emerson Creek Events".

I am more than happy to talk about this over the phone. We just don't understand how it hurts your business.

Thanks

Dave Demiduk
Owner & Proprietor
cell 630 319 1460

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

On Mon, Mar 6, 2017 at 7:49 AM, Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com> wrote:

Hi Dave,

I hadn't heard back from you on the link idea. What's your thoughts on that. Also, over the weekend I was looking at Instagram again and I believe that the "emersoncreekevents" link there really needs to be changed to something that includes "tea room". I think there is too much confusion there with us on search terms.

Thanks,

Jim Leavitt

Emerson Creek Pottery

540- 297 7524

--
Dave Demiduk
Owner & Proprietor

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:47 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: question

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **Jim Leavitt - EmersonCreekPottery.com** <EmersonCreek@emersoncreekpottery.com>
Date: Mon, Mar 6, 2017 at 7:49 AM
Subject: question
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

Hi Dave,

I hadn't heard back from you on the link idea. What's your thoughts on that. Also, over the weekend I was looking at Instagram again and I believe that the "emersoncreekevents" link there really needs to be changed to something that includes "tea room". I think there is too much confusion there with us on search terms.

Thanks,

Jim Leavitt

Emerson Creek Pottery

540- 297 7524

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:48 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: contract

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **Chris Demiduk** <chris@ecreekpotteryandtearoom.com>
Date: Tue, Jul 25, 2017 at 5:06 PM
Subject: Fwd: contract
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

----- Forwarded message -----

From: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Date: Tue, Jul 25, 2017 at 6:44 AM
Subject: contract
To: <chris@ecreekpotteryandtearoom.com>

Hi Chris,

Have you had time to review and sign the contract I sent yet? Hoping to get this concluded shortly.

Your order should be ready to go out soon.

Thanks,

Jim

--
Chris Demiduk
Owner & Proprietor

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

Check out our new video on You Tube: Emerson Creek Pottery - Day in the Country
<https://www.youtube.com/watch?v=GLNLeF3OgeE>

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:50 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Trademark

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Wed, Aug 16, 2017 at 6:37 PM
Subject: Trademark
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>

Jim,

Just wondering if you received our response to the agreement you had sent over to us. We had it sent over to you last Wednesday the 9th via email.

Our plans are to proceed with an opposition to your trademark and proceed with our own trademarks as stated in our response if we do not hear back from you by this Friday the 18th.

Probably the best way to do this at this time is via email.

Dave Demiduk
Owner & Proprietor

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:51 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Trademark

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Date: Wed, Aug 23, 2017 at 7:20 AM
Subject: RE: Trademark
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

Have been out of town.

From: ddemiduk@gmail.com [mailto:ddemiduk@gmail.com] **On Behalf Of** dave demiduk
Sent: Wednesday, August 16, 2017 7:37 PM
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Subject: Trademark

Jim,

Just wondering if you received our response to the agreement you had sent over to us. We had it sent over to you last Wednesday the 9th via email.

Our plans are to proceed with an opposition to your trademark and proceed with our own trademarks as stated in our response if we do not hear back from you by this Friday the 18th.

Probably the best way to do this at this time is via email.

Dave Demiduk

Owner & Proprietor

Emerson Creek Pottery & Tearoom

5126 Stephens Rd

Oswego, IL 60543

t. (630) 554-7100

www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:51 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Its been two months

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Thu, Nov 2, 2017 at 1:38 PM
Subject: Its been two months
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>

Jim,

I hope all is well.

Its been two months since we last talked. At that time you had said you were going to talk to your layer about a couple of things and I thought get back to us.

Just wondering whats going on.

--

Dave Demiduk
Owner & Proprietor

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:52 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd:

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

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t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Mon, May 20, 2019 at 2:54 PM
Subject:
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>, chris <Chris@ecreekpotteryandtearoom.com>

Jim,

It was good talking to you today we wish it had not gotten to this point.

We have done or plan on doing the following.

Taking the two words "pottery" and "tearoom" out of all of our printed material off all social media and off our web site. We have about 500 cookbooks printed at this time. For our next round of printing we will remove the "Pottery and Tearoom"

Removing all pictures from our web site where you can tell it's your pottery in the picture.

Continuing to sell your pottery at a discounted price until we have no more to sell no matter how long it takes to sell.

Using the name "Emerson Creek Events" for our event business.

Using the name "Emerson Creek Cafe"

Using the name "The Countryview Shop" Or "The Shop at Emerson"

Using no hashtags with the word "pottery" as part of it.

These are some of the things we have done and plan on doing. We expect you to do the following.

Revoke your appeal with the USPTO of us trademarking the name "Emerson Creek Events"

Transfer the domain "Emerson Creek Events" to us. Our web people can contact you on how this can happen.

For you to not use "Cafe" or "Events" in any of your social media on any printed material or on your web site.

Let us know what you think.

Dave Demiduk
Owner & Proprietor

Emerson Creek Pottery & Tearoom
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:52 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Questions

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Tue, May 28, 2019 at 12:49 PM
Subject: Questions
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>

Jim,

We're not sure what's going on. We did exactly what you asked us to do. We send to you in an email what we have done so far and what else we plan to do. That was eight days ago and no response from you. You told us you wanted to try and work this between ourselves, we both agreed the lawyer fees are getting out of hand. This is not a good start on working it out ourselves.

--

Dave Demiduk
Owner & Proprietor

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Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:52 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Questions

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----- Forwarded message -----

From: **dave demiduk** <dave@ecreekpotteryandtearoom.com>
Date: Tue, May 28, 2019 at 12:49 PM
Subject: Questions
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>

Jim,

We're not sure what's going on. We did exactly what you asked us to do. We send to you in an email what we have done so far and what else we plan to do. That was eight days ago and no response from you. You told us you wanted to try and work this between ourselves, we both agreed the lawyer fees are getting out of hand. This is not a good start on working it out ourselves.

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Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:52 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: Questions

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: Jim Leavitt <emersoncreek@emersoncreekpottery.com>
Date: Tue, May 28, 2019 at 12:55 PM
Subject: RE: Questions
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

Working on it got some fires to put out before I get to you

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Tuesday, May 28, 2019 1:50 PM
To: Jim Leavitt - EmersonCreekPottery.com <EmersonCreek@emersoncreekpottery.com>
Subject: Questions

Jim,

We're not sure what's going on. We did exactly what you asked us to do. We send to you in an email what we have done so far and what else we plan to do. That was eight days ago and no response from you. You told us you wanted to try and work this between ourselves, we both agreed the lawyer fees are getting out of hand. This is not a good start on working it out ourselves.

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Dave Demiduk

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t. (630) 554-7100

www.ecreekpotteryandtearoom.com

Ken McLaughlin

From: dave demiduk <dave@ecreekpotteryandtearoom.com>
Sent: Monday, October 4, 2021 1:53 PM
To: Ken McLaughlin; llaubscher@laubscherlaw.com
Subject: Fwd: for your review

Follow Up Flag: Follow up
Flag Status: Completed

Dave Demiduk
Owner & Proprietor

Emerson Creek
5126 Stephens Rd
Oswego, IL 60543
t. (630) 554-7100
www.emersoncreek.com

----- Forwarded message -----

From: **Jim Leavitt** <emersoncreek@emersoncreekpottery.com>
Date: Fri, May 31, 2019 at 1:40 PM
Subject: for your review
To: dave demiduk <dave@ecreekpotteryandtearoom.com>

Dave,

I told you I was going away when we talked, which I did, and I am just getting back and dealing with this.

I tried hard that it wouldn't get to this point and offered you a free deal at the very start. You brought us to this point.

I see you've changed your domain name to emersoncreek.com. You say below you'd change your names to "Emerson Creek Events" and "Emerson Creek Cafe." Your trademark application is Emerson Creek Events. And you have in all your emails that you are the "owner and proprietor" of Emerson Creek POTTERY and Tearoom.

I made the Emerson Creek trademark over 40 years ago, and I've worked damn hard since to keep it mine. Chris and Ron came to me and wanted to sell MY pottery, and I said they could using MY trademark only if they didn't sell any other pottery. That was always the deal. But you've been doing that for years now without me knowing.

You can't sell any pottery but mine in Oswego, because confusion will continue and my mark is being damaged.

You are also still using ecreekPOTTERYandtearoom.com in your email addresses, facebook, twitter, pinterest, Instagram and your new look book and Vintage Market, where you're telling people to market and like your facebook with ecreekPOTTERYandtearoom.com. AND you've changed none of your signage in Oswego. This is continuing to cause the confusion and starting new confusion and damaging MY trademark. !!

I did see for the market you're using Emerson's Vintage Market. Why don't you just drop CREEK, use only Emerson / Emerson's and stop selling pottery which would stop causing all the confusion? Or just change your name to Countryview.

I'll go all the way on this if I have to or you can settle this now. From what my lawyer sent yours I'm willing to do the following otherwise Washington will tell you to do it:

- \$60,000 payment to ECP for all past sales of non-EMERSON CREEK pottery and royalty for use of mark to date; You can pay over 1 year.
- I will transfer emersoncreekevents.com to Demiduks. Demiduks will transfer emersoncreek.com to me. Demiduks may use EMERSON CREEK EVENTS, EMERSON CREEK CAFE, or EMERSON alone to offer restaurant, gift shop and events in Oswego, IL; Demiduks may not sell any third-party pottery or related goods or services;
- paid-up annual license for use of those marks;
- Demiduks may sell off all third-party pottery, related goods and cook books on hand over 1 year;
- Demiduks may use any domain name or social media name with those marks but not one including the word "pottery"

- Demiduks will post a notice in the gutter and on any terms and conditions page of each website page and on all social media accounts that they and their corporate entities are licensees of ECP;
- Demiduks will assign their pending USPTO applications and any IL registrations to ECP, which will license them back to Demiduks as part of the license herein proposed;
- Demiduks shall have a right of first refusal to buy the **EMERSON CREEK** trademarks for restaurant and event services from ECP, if current owner sells the business.
- ECP will agree not to use the name "Emerson Creek" in connection with restaurants, events, or similar services anywhere outside of greater Bedford, Virginia.

Let me know.

Jim